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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,177	02/09/2001	James D. Hooberman	HCI-10002/38	8403
25006	7590	11/27/2007		
GIFFORD, KRASS, SPRINKLE, ANDERSON & CITKOWSKI, P.C			EXAMINER	
PO BOX 7021			USTARIS, JOSEPH G	
TROY, MI 48007-7021				
			ART UNIT	PAPER NUMBER
			2623	
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			11/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/780,177	Applicant(s) HOOBERMAN, JAMES D.	
	Examiner Joseph G. Ustaris	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4 and 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment dated October 01, 2007 in application 09/780,177.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshida et al. (US 5982414) in view of www.stanford.edu/~dement/sleeplinks.html and Meier et al. (US005496962A).

Claim 1, Yoshida discloses a virtual sound system (see Fig. 1 and 2) comprising a network-based program (bi-directional signal distribution system; i.e. CATV or Internet; Col. 1, lines 56-Col. 2, lines 15) for generating repetitive sleep including sound having a frequency between 3 and 30Hz at a user location (Col. 5, lines 18-30; Col. 7, lines 35-Col. 8, lines 60);

an access network for accessing the network-based program at the user location for generating the repetitive sleep inducing sound (Col. 9, lines 28-38).

Yoshida does not clearly disclose the web/internet link to information of sleep related research, sleep products and a sleep discussion chat room and a visual stream changing colors in concert with the sound.

Yoshida discloses the program could be link or delivered from Internet (Col. 9, lines 35-38). A Web link www.stanford.edu/~dement/sleeplinks.html discloses the use of the web page "Links to other sleep sites" to link to corresponding web sites for retrieving additional research information, to a Chat room/forum and product information of a particular topic of interest, i.e., sleep disorder issues, is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yoshida to have URLs link www.stanford.edu/~dement/sleeplinks.html to related Web sites for the benefit of providing users with additional information related to sleep disorder issues.

Yoshida also discloses that the visual stream changes in concert with the sound (Col. 7, lines 35-50 and Col. 7, lines 59-Col. 8, lines 40). Meier et al. (Meier) also discloses a system that provides visual effects with sounds. Meier discloses that the visual stream changes colors in concert with the sound (See col. 17 lines 21-43). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system disclosed by Yoshida to have the visual stream also change colors in concert with the sound, as taught by Meier, in order to enhance the video signal thereby increasing the interaction between the user and the system in order to efficiently convey certain frequencies to the user (See Yoshida col. 5 lines 18-41).

Claim 4, Yoshida further discloses a sound controller selected from the group consisting of volume control and sound play duration (see Fig. 4 with volume control and Fig. 5 for time duration of usage).

Claim 6, Yoshida further discloses an alarm clock routine (Col. 7, lines 19-22; Col. 8, lines 53-60).

Response to Arguments

4. Applicant's arguments with respect to claims 1, 4, and 6 have been considered but are moot in view of the new ground(s) of rejection.

Furthermore, applicant argues that Yoshida lacks motivation to modulate color with sound. The examiner respectfully disagrees. Yoshida already discloses the use of colors and sounds together at certain frequencies to help the user fall asleep (See rejection above). Yoshida discloses that the colors is turned on and off at certain frequencies. The user sees the color blue and then the absence of blue (or no color), therefore the user see a change in color on the screen at certain frequencies.

Taking this concept from Yoshida, one of ordinary skill would recognize that changing colors at frequencies found to help a user fall asleep, would aid the system in conveying these frequencies to the user.

Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph G. Ustaris whose telephone number is 571-272-7383. The examiner can normally be reached on M-F 7:30-5 PM; Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JGU

November 21, 2007



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